wherein an electroconductive path is provided between the electroconductive layer and the bottom of the pores disposed above the electroconductive layer.

REMARKS

Claims 1 to 25 and 46 are pending in the application, with Claim 46 having been added, and Claims 12 and 23 to 25 having been amended, herein. Claims 1 and 46 are the independent claims. Reconsideration and further examination are respectfully requested.

Initially, Applicants respectfully submit that newly-added Claim 46 is directed to a generic claim which is generic to Species 6 to 10, each of which having been identified by the Examiner in the February 2, 2002 Office Action (Paper No. 7). Generic Claim 46 is believed to be allowable and upon its allowance, Applicants submit that they are entitled to allowance of all claims directed to the species which are encompassed by generic Claim 46. (M.P.E.P. § 806.04(d)).

Applicants respond to the Election Requirement by provisionally electing, with traverse, Species 6, which is defined in the Office Action as involving different filling materials, and a surface of the substrate surrounding an area at which the electroconductive layer is provided. Applicants submit that Claims 12 to 19 read on provisionally-elected Species 6, and that Claim 46 encompasses Species 6 (i.e., Claims 12 to 19) as well as Species 7 to 10 (i.e., Claims 20 to 25).

Applicants traverse the requirement for an election of species on the grounds that Species 1 to 10 are not so independent or distinct as to warrant restriction and that there is not a serious burden on the Examiner to examine the claims directed to

Species 1 to 10 in the same application. Species 1 and 10 are directed to a porous structure which comprises a substrate, and a layer, which is primarily composed of aluminum oxide, and which has a plurality of pores, wherein a part of the aluminum oxide layer which is disposed beneath the pores and above an electroconductive layer of the structure is provided under the plurality of pores and above the substrate, and wherein the aluminum oxide layer provided between the bottom of the pores disposed above the electroconductive layer and the electroconductive layer comprises a material forming the electroconductive layer.

Accordingly, Species 1 to 10 are not believed to be so unconnected in design, operation or effect, or so distinct as to warrant restriction. (M.P.E.P. § 802.01). Accordingly, reconsideration and withdrawal of the Election Of Species Requirement is respectfully requested.

Applicants' undersigned attorney may be reached in our Costa Mesa, CA office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

Attorney for Applicants

Registration No. 39,000

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

CA_MAIN 40078 v 1

APPENDIX

VERSION WITH MARKINGS TO SHOW CHANGES MADE TO CLAIMS

12. (Amended) A structure having pores according to Claim 46, wherein a part of the layer which is primarily composed of aluminum oxide is provided under the plurality of pores, and wherein the layer primarily composed of aluminum oxide provided between the electroconductive layer and the bottom of the pores disposed above the electroconductive layer comprises a material forming the electroconductive layer. [comprising:

a substrate;

a patterned electroconductive layer formed on a surface of the substrate;

a layer primarily composed of aluminum oxide covering the electroconductive layer and a surface of the substrate surrounding an area at which the electroconductive layer is provided; and

a plurality of pores formed in the layer primarily composed of aluminum oxide;

wherein the plurality of pores are disposed above the electroconductive layer and the surface of the substrate surrounding the electroconductive layer, with a part of the layer primarily composed of aluminum oxide provided under the plurality of pores; and

wherein the layer primarily composed of aluminum oxide provided between the electroconductive layer and the bottom of the pores disposed above the electroconductive layer comprises a material forming the electroconductive layer.]

23. (Amended) An electron-emitting device comprising an electron-emitting

material provided in at least one pore of a structure having pores according to [either one of claims 1 and] claim 12.

24. (Amended) A magnetic device comprising a magnetic material provided in at least one pore of a structure having pores according to [either one of claims 1 and] claim 12.

25. (Amended) A light-emitting device comprising a light-emitting material provided in at least one pore of a structure having pores according to [either one of claims 1 and] claim 12.

CA_MAIN 40081 v 1